

**N. KEITH CHAMBERS**  
**EXECUTIVE DIRECTOR**



Department alleging Respondent discriminated against him on the basis of his national origin, sexually harassed him and retaliated against him when he was discharged from his employment.

2. Complainant, "...submitted a written request to withdraw his charge pursuant to the Department's Rules and Regulations..." On November 3, 2006, the Department entered an Order of Closure. As of that date the matter was "closed."

3. Complainant, on his own behalf, filed a Complaint with the Commission on July 17, 2007, attaching his previously filed and *closed* charge of discrimination.

#### CONCLUSIONS OF LAW

1. The Commission lacks jurisdiction over this Complaint, because it was not filed pursuant to section 5/7A-102(G) of the Act.

2. Respondent's motion to dismiss should be granted.

#### DISCUSSION

##### *Pro Se Litigant*

There is some sympathy with the *pro se* litigant, as the practice of law requires skills that sometimes test the abilities of licensed attorneys. However, "Justice requires that the parties live with litigation decisions they have made, either through their attorney or on a *pro se* basis." Fitzgerald and Fischer Imaging Corp., IHRC, ALS No. 10142, May 29, 1998.

The fact that Complainant is a *pro se* litigant has no influence on this decision, as "...a *pro se* litigant is held to the standard of an attorney." Mininni and Inter-Track Partners, IHRC, ALS No. 7961, December 10, 1996 quoting, First Illinois Bank and Trust v. Galuska, 155 Ill. App. 3d 86, 627 N.E. 2d 325 (1<sup>st</sup> Dist. 1993).

##### Jurisdiction

The Commission only has jurisdiction with a case when: 1) the Department files a Complaint within the statutory investigation period after the charge was filed or within an extension of that period as agreed to in writing by all the parties; or 2) when the aggrieved party

files the Complaint during the statutory window after the expiration of the investigation period, or within an extension of that period as agreed to in writing by all the parties, and the Department has not issued a report and determination. 775 ILCS 7A-102(G).

Complainant filed his charge with the Department on February 1, 2006. He then requested to withdraw it, and as a result his case was *closed* by the Department on November 3, 2006. On July 17, 2007, Complainant filed his Complaint with the Commission, attaching the same charge of discrimination previously filed and subsequently ordered *closed*. Complainant could not comply with 775 ILCS 7A-102(G), as his case did not exist at the Department.

Therefore, the Commission does not have subject matter jurisdiction over this matter.

#### Attorney's fees

*Pro se* Complainant stood before a two tier labyrinth when he began his search for a remedy to his discrimination case. Unknown to him, and some attorneys, his path *to be made whole* was replete with intricate state and federal laws and codes, which were made up of limitation periods, options, agencies and litigation forums. Any turn could have negative consequences or advance his case. Advice was plentiful, but decisions made were his choice alone. *Pro se* Complainant decided to withdraw his charge with the Department which was formalized on November 3, 2006. His case ended that day. The substance of his discrimination case could not be heard by the Commission as the case no longer existed.

Respondent's request for attorney's fees is denied as it was not Complainants intent to file an untimely Complaint.

#### RECOMMENDATION

Based on the foregoing, it is recommended that Respondent's Motion to Dismiss be granted, and its request for attorney's fees be denied.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
WILLIAM J. BORAH  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: January 27, 2010